

Assembly Bill No. 1414

Passed the Assembly April 3, 2014

Chief Clerk of the Assembly

Passed the Senate March 13, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 27510, 27519, and 27644 of, and to add Sections 27519.6 and 27644.5 to, the Food and Agricultural Code, and to add Sections 109992 and 110674 to the Health and Safety Code, relating to eggs, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1414, Committee on Agriculture. Pasteurized in-shell eggs: labeling.

(1) Existing law requires egg handlers to register with the Secretary of Food and Agriculture and generally sets forth standards for shell eggs. Existing law imposes specified requirements relating to packing and labeling shell eggs and makes a violation of those provisions a crime.

This bill would exclude pasteurized in-shell eggs, as defined, from the labeling provisions that are generally applicable to shell eggs, and would instead impose other labeling requirements on egg handlers of pasteurized in-shell eggs, as specified. By creating new crimes, the bill would impose a state-mandated local program.

(2) Existing law, the Sherman Food, Drug, and Cosmetic Law (the Sherman Act), requires the State Department of Health Care Services to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the federal Food, Drug, and Cosmetic Act. The Sherman Act also imposes various labeling requirements for food and other products, and specifies that any food is misbranded if its labeling is false or misleading, as prescribed. A violation of these provisions is a crime.

This bill would define the term “pasturized in-shell eggs” for purposes of the Sherman Act, and would specify that any food is misbranded if its labeling does not conform with specified requirements for pasteurized in-shell egg labeling, as prescribed. By creating a new crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by

the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 27510 of the Food and Agricultural Code is amended to read:

27510. "Egg handler" means a person engaged in the business of producing, candling, grading, packing, or otherwise preparing shell eggs or pasteurized in-shell eggs for market or who engages in the operation of selling or marketing eggs that he or she has produced, purchased, or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, or otherwise. This section shall not apply to any purchaser who is a retailer and who does not handle eggs in any other capacity, except as a retailer.

SEC. 2. Section 27519 of the Food and Agricultural Code is amended to read:

27519. "Shell eggs" means any in-shell eggs other than pasteurized in-shell eggs, as defined in Section 27519.6.

SEC. 3. Section 27519.6 is added to the Food and Agricultural Code, to read:

27519.6. "Pasteurized in-shell eggs" means in-shell eggs that have been pasteurized by any method approved by the federal Food and Drug Administration or the department.

SEC. 4. Section 27644 of the Food and Agricultural Code is amended to read:

27644. (a) Except as provided in subdivision (c), it is unlawful for an egg handler, as defined in Section 27510, to sell, offer for sale, or expose for sale eggs that are packed or graded for human consumption unless at least one of the following conditions is met:

(1) The consumer container is plainly, legibly, and conspicuously labeled "KEEP REFRIGERATED" or with words of similar meaning. Consumer container labeling that complies with the safe-handling instructions required by Section 101.17 of

Title 21 of the Code of Federal Regulations shall be deemed to comply with this paragraph.

(2) A conspicuous sign is posted at the point of sale for eggs on bulk display advising consumers that the eggs are to be refrigerated as soon as practical after purchase.

(b) Except as provided in subdivision (c), it is unlawful for an egg handler to sell, offer for sale, or expose for sale eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled on one outside top, side, or end with all of the following:

(1) (A) The words “Sell-by” immediately followed by the month and day in bold type, for example “June 30” or “6-30.” Common abbreviations of months shall be permitted.

(B) The sell-by date shall not exceed 30 days from the date on which the eggs were packed, excluding the date of packing.

(C) If the eggs are repacked but not regraded, the original sell-by date shall apply.

(2) A Julian pack date. As used in this paragraph, the Julian pack date is the consecutive day of the year on which the eggs were packed.

(3) The identification number of the plant of origin.

(c) This section does not apply to eggs that are packaged for export. Paragraph (1) of subdivision (b) does not apply to eggs that are packaged for interstate commerce or eggs that are packaged for military sales. This section does not apply to pasteurized in-shell eggs.

(d) All eggs returned from grocery stores, store warehouses, and institutions shall not be reprocessed for retail shell egg sales.

(e) (1) For purposes of paragraph (3) of subdivision (b), the department, in consultation with the Shell Egg Advisory Committee, shall establish a plant identification numbering system and assign identification numbers to all egg handling facilities.

(2) For purposes of complying with paragraph (3) of subdivision (b), an egg handling facility that is inspected by the United States Department of Agriculture, and to which a federal plant identification number has been assigned, may use the federal identification number, the identification number assigned by the department, or both.

SEC. 5. Section 27644.5 is added to the Food and Agricultural Code, to read:

27644.5. (a) It is unlawful for an egg handler, as defined in Section 27510, to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless both of the following conditions are met:

(1) The consumer container is conspicuously labeled “KEEP REFRIGERATED” or with words of similar meaning. Consumer container labeling that complies with the safe handling instructions required by Section 101.17 of Title 21 of the Code of Federal Regulations shall be deemed to comply with this paragraph.

(2) A conspicuous sign is posted at the point of sale for pasteurized in-shell eggs on bulk display advising consumers that the pasteurized in-shell eggs are to be refrigerated as soon as practical after purchase.

(b) Except as provided in subdivision (c), it is unlawful for an egg handler to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled on one outside top, side, or end with all of the following:

(1) The words “Sell by” immediately followed by the month and day in bold type. Common abbreviations for months may be used.

(A) The sell-by date shall not exceed 75 days from the date on which the pasteurized in-shell eggs were pasteurized, excluding the date of pasteurization. Processors of in-shell eggs that subject the eggs to the pasteurization process shall establish a sell-by date by completion of an appropriate shelf stability study that includes public health and safety criteria. The processor shall retain the study on file at the processing plant and make it available to the department or the State Department of Public Health upon request.

(B) If the pasteurized in-shell eggs are repacked, the original sell-by date shall apply.

(2) A Julian pack date. As used in this paragraph, the Julian pack date is the consecutive day of the year on which the pasteurized in-shell eggs were pasteurized.

(3) The identification number of the plant of origin.

(4) A conspicuous identification of the eggs as “pasteurized.”

(5) All state and federal labeling requirements.

(c) This section does not apply to pasteurized in-shell eggs that are packaged for export.

(d) Paragraph (1) of subdivision (b) does not apply to pasteurized in-shell eggs that are packaged for interstate commerce or pasteurized in-shell eggs that are packaged for military sales if exported to a state or federal agency that requires a different format for the sell-by or best-if-used-by date on pasteurized in-shell eggs, and the processor is utilizing that format.

(e) All pasteurized in-shell eggs returned from grocery stores, store warehouses, and institutions shall not be reprocessed for any retail in-shell egg sales.

(f) (1) The department, in consultation with the Shell Egg Advisory Committee, established pursuant Section 27571, shall establish a plant identification numbering system and assign identification numbers to all pasteurized in-shell egg handling facilities.

(2) For purposes of complying with paragraph (3) of subdivision (b), a pasteurized in-shell egg handling facility that is inspected by the United States Department of Agriculture or the federal Food and Drug Administration, and to which a federal plant identification number has been assigned, may use the federal identification number, the identification number assigned by the department, or both.

SEC. 6. Section 109992 is added to the Health and Safety Code, to read:

109992. “Pasteurized in-shell eggs” means shell eggs that have been pasteurized by any method approved by the federal Food and Drug Administration, the Department of Food and Agriculture, or the department.

SEC. 7. Section 110674 is added to the Health and Safety Code, to read:

110674. Any food is misbranded if its labeling does not conform with the requirements for pasteurized in-shell egg labeling as set forth in Section 27644.5 of the Food and Agricultural Code, and the regulations adopted pursuant thereto.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make changes to labeling requirements for pasteurized in-shell eggs at the earliest possible time to protect public health and safety, it is necessary that this act take effect immediately.

Approved _____, 2014

Governor